

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. CV 22-8738 GW (KS)

Date: March 7, 2023

Title Arthur Dale Senty Haugen v. Warden Birkholz

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Present: The Honorable: Karen L. Stevenson, United States Magistrate Judge

Gay Roberson  
Deputy Clerk

Court Reporter / Recorder

Attorneys Present for Petitioner: n/a

Attorneys Present for Respondent: n/a

**Proceedings: (IN CHAMBERS) ORDER TO SHOW CAUSE RE: DISMISSAL**

On November 29, 2022, Petitioner, a federal prisoner proceeding *pro se*, filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 (the “Petition”) challenging the federal court’s imposition and execution of a sentence in 2018 by the United States District Court for the District of Minnesota when Petitioner was already serving a sentence imposed by a state court. (Dkt. No. 1.) On January 19, 2023, pursuant to the Court’s Order Requiring Response to Petition issued on December 8, 2022 (dkt. no. 4), Respondent filed a Motion to Dismiss (the “Motion”) arguing that the Petition should be dismissed under the abuse of the writ doctrine, because the doctrine of “primary jurisdiction” does not apply, and because Petitioner’s argument as to “concurrent sentences” is inapplicable. (Dkt. No. 7.)

Pursuant to the Court’s Order Requiring Response to Petition, Petitioner’s opposition to the Motion was due within 30 court days of service, or **February 20, 2023**. (Dkt. No. 4 at 3; Dkt. No. 7 at 161.)

Petitioner’s opposition is now two weeks past due. Local Rule 7-12 states that a party’s failure to file a required document such as an opposition to a motion “may be deemed consent to the granting . . . of the motion.” Further, pursuant to Federal Rule of Civil Procedure 41(b), an action may be subject to involuntary dismissal if a plaintiff or petitioner “fails to prosecute or to comply with these rules or a court order.” Thus, the Court could properly recommend dismissal of the action for Petitioner’s failure to oppose the Motion and timely comply with the Court’s scheduling order.

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However, in the interests of justice, Petitioner is **ORDERED TO SHOW CAUSE on or before March 28, 2023** why the action should not be dismissed under Local Rule 7-12 and Federal Rule of Civil Procedure 41(b). In order to discharge this Order and proceed with this action, Petitioner must file by the March 28, 2023 deadline either:

- (1) an opposition to the Motion in compliance with the Local Rules and this Court's scheduling order; or
- (2) a request for an extension to file an opposition accompanied by a sworn declaration (not to exceed 3 pages) establishing good cause for Petitioner's failure to timely respond to the Motion.

Alternatively, Petitioner may discharge this order and dismiss this case by filing a signed document entitled a "Notice of Voluntary Dismissal" requesting the voluntary dismissal of the action without prejudice pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure.

**Petitioner is cautioned that the failure to timely comply with this order may lead to a recommendation of dismissal based on Local Rule 7-12 and Federal Rule of Civil Procedure 41(b).**

Initials of Preparer

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